

GAHC010276532023



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : Crl.Pet./1294/2023

1. RAHUL SAHA AND 3 ORS
S/O MONTU MOHAN SAHA,
R/O SRINAGAR COLONY, SUBASHNAGAR,
P.O. AND AND DIST. KARIMGANJ, ASSAM

2: SRI MONTU MOHAN,
S/O LATE MONORANJAN SAHA,
R/O SRINAGAR COLONY, SUBASHNAGAR
P.O. AND AND DIST. KARIMGANJ, ASSAM.

3: SMTI. KALYANI SAHA,
W/O MONTU MOHAN SAHA,
R/O SRINAGAR COLONY, SUBASHNAGAR,
P.O. AND AND DIST. KARIMGANJ, ASSAM.

4: SRI TAPASH SARKAR,
C/O MONTU MOHAN SAHA,
R/O STEAMER ROAD, BHAIRAB BARI,
P.O.
P.S. AND DIST. KARIMGANJ, ASSAM

---VERSUS---

1. THE STATE OF ASSAM AND ANR
REP. BY THE PP, ASSAM.

2: SMTI. ANURUPA DAS,
D/O SRI DIPAK DAS,
NILOMONI ROAD, WARD NO. 9,
P.O
P.S. AND DIST. KARIMGANJ, ASSAM

Advocate for the Petitioners : MR H R CHOUDHURY
Advocate for the Respondent : PP, ASSAM

- B E F O R E -
HON'BLE MR. JUSTICE MRIDUL KUMAR KALITA
ORDER

13.12.2023

Heard Mr. H.R. Choudhury, learned counsel for the petitioners. Also heard Mr. P. Borthakur, learned Additional Public Prosecutor, Assam.

This application under Section 482 read with Section 401 of the Code of Criminal Procedure, 1973 has been filed by the petitioners, namely, Sri Rahul Saha, Sri Montu Mohan, Smti Kalyani Saha and Sri Tapash Sarkar impugning the order dated 08.11.2023 passed by the learned Sessions Judge, Karimganj in Sessions Case No.55/2023 whereby Non-bailable Warrant of Arrest (NBWA) was issued against the above named petitioners.

Learned counsel for the petitioners has submitted that on the basis of a complaint filed by the respondent No.2, charge-sheet was laid against the present petitioners under Sections 120(B)/376/417 of Indian Penal Code and the case was committed to the Court of learned Sessions Judge, Karimganj. The learned Sessions Judge, Karimganj had issued summons to the present petitioners. However, they could not appear before the learned Sessions Judge and filed petitions before the learned Trial Court showing the cause of their absence. On 08.11.2023 also when the Sessions Case No.55/2023 was fixed before the learned Sessions Judge, Karimganj, the present petitioners could not appear before the learned Trial Court and filed a petition for condoning their absence. However, the learned Sessions Judge rejected the said prayer on the ground that the petitioners have been repeatedly remaining absent before the learned Trial Court.

Learned counsel for the petitioners has submitted that the petitioners could not

appear before the learned Trial Court on the fixed dates as they have gone to Chennai for treatment purpose. Though the said fact was stated before the learned Trial Court, however, the same was not considered.

Learned counsel for the petitioners has submitted that now the petitioners are ready to face the trial and shall appear before the learned Trial Court on the next date fixed, i.e. 06.02.2024.

Learned Additional Public Prosecutor also does not oppose the prayer as the petitioners are ready to face the trial.

Considering the submissions made by the learned counsel for both the sides as well as considering the facts and circumstances of the case including the fact that since the petitioners could not appear before the learned Trial Court on the date fixed as they went to Chennai for treatment purpose, this Criminal Petition is hereby disposed of with the direction that all the petitioners shall appear before the learned Trial Court on the next date fixed, i.e. 06.02.2024 without fail.

To facilitate their appearance before the learned Trial Court on the next date fixed, the operation of Non-bailable Warrant of Arrest (NBWA) issued against the present petitioners by the learned Trial Court by order dated 08.11.2023 passed in Sessions Case No.55/2023 shall be kept in abeyance till 06.02.2024.

On their appearance before the learned Trial Court, the petitioners may seek any further relief before the learned Trial Court, if so advised.

With the above observations and directions, this criminal petition is disposed of.

JUDGE

Comparing Assistant